



December 20, 2022

The Honorable Jesse M. Furman
United States District Judge for the Southern District of New York
Thurgood Marshall Courthouse
40 Centre Street, Room 2202
New York, NY 10007

Re: *Golden Unicorn Enters., Inc. v. Audible, Inc.*, 1:21-cv-7059-JMF

Dear Judge Furman:

The parties write to request Your Honor's approval of a procedure for moving to seal Plaintiffs' Memorandum of Law in Support of their Motion for Class Certification, along with exhibits thereto. Plaintiffs have notified Audible that their Memorandum of Law will reference, quote from, and attach a number of documents that Audible produced to Plaintiffs under designations of "confidential" and "highly confidential," pursuant to the Protective Order in this matter, ECF No. 44. As Plaintiffs are still drafting their Memorandum of Law, they have not made final determinations about exactly which of Audible's designated documents they will attach and cite. Plaintiffs have given Audible general descriptions of the types of documents and their contents, and on that basis Audible anticipates moving to seal or redact a significant number of the documents. Audible is not, however, able to provide the Court with specific rationales for sealing or redacting the documents, as required by Your Honor's Individual Rules and Practices in Civil Cases, Rule 7(C), without first reviewing the documents themselves.

The parties therefore propose that pursuant to Your Honor's Individual Rules and Practices in Civil Cases 7(C)(i)-(ii), Plaintiffs file a letter-motion on December 21 seeking to file these materials under seal on the basis of Audible's request. The parties further propose that Audible file its letter explaining the need to seal or redact the documents on or before December 30, 2022, and that Plaintiffs at that time file any redacted versions as public viewable documents. While Rule 7(C)(i) requires a party to move for sealing within three business days after it is notified of the impending filing, causing the due date to fall on December 27, 2022, the parties respectfully submit that the potential number and complexity of these documents and the complications of reviewing these documents during the holiday period justify a slightly longer period for Audible to review the documents and justify the need to seal or redact them.

Respectfully Submitted,

/s/ Mitchell Breit

Mitchell Breit
mbreit@milberg.com
Leland Belew
lbelew@milberg.com
Milberg Coleman Bryson Phillips Grossman,
PLLC
100 Garden City Plaza, Suite 500
Garden City, NY 11530

/s/ Jedediah Wakefield

Kathryn J. Fritz
kfritz@fenwick.com
Jedediah Wakefield (admitted *pro hac vice*)
jwakefield@fenwick.com
Nicholas A. Santos (admitted *pro hac vice*)
nsantos@fenwick.com
FENWICK & WEST LLP
555 California Street, 12th Floor

(212) 594-5300

/s/ Gary W. Jackson

Gary W. Jackson

gjackson@farrin.com

Christopher Bagley (admitted *pro hac vice*)

cbagley@farrin.com

Law Offices of James Scott Farrin

280 S. Mangum Street, Suite 400

Durham, NC 27701

(919) 226-1913

*Attorneys for Plaintiffs Golden Unicorn
Enterprises, Inc., and Big Dog Books, LLC*

San Francisco, CA 94104

Telephone: 415.875.2300

/s/ Deena Feit

Brian Buckley (admitted *pro hac vice*)

bbuckley@fenwick.com

Deena Feit (admitted *pro hac vice*)

dfeit@fenwick.com

Wenbo Zhang (New York Bar No. 5623186)

wzhang@fenwick.com

FENWICK & WEST LLP

1191 Second Avenue, 10th floor

Seattle, WA 98101

Telephone: 206.389.4510

Attorneys for Defendant Audible, Inc.